

**CLAIM FOR DAMAGE,
INJURY, OR DEATH**

INSTRUCTIONS: Please read carefully the instructions on the reverse side and supply information requested on both sides of this form. Use additional sheet(s) if necessary. See reverse side for additional instructions.

FORM APPROVED
OMB NO. 1105-0008

1. Submit to Appropriate Federal Agency:

US Department of Veterans Affairs
810 Vermont Avenue NW
Washington, DC 20420

**2. Name, address of claimant, and claimant's personal representative if any.
(See instructions on reverse). Number, Street, City, State and Zip code.**

Patrick Webster, c/o Mark S. Johnson, Attorney
Johnson & Schneider, L.L.C.
212 North Main Street
Cape Girardeau, MO 63701

3. TYPE OF EMPLOYMENT
4. DATE OF BIRTH
5. MARITAL STATUS
6. DATE AND DAY OF ACCIDENT
7. TIME (A.M. OR P.M.)

MILITARY CIVILIAN

06/25/1943

Married

01/07/2016

9:56 a.m.

3. BASIS OF CLAIM (State in detail the known facts and circumstances attending the damage, injury, or death, identifying persons and property involved, the place of occurrence and the cause thereof. Use additional pages if necessary).

The Veterans Administration Hospital in Marion, Illinois, by and through its agent, Shobha Dayal, M.D., was guilty of one or more of the following negligent acts or omissions to act: (a) Ordered the cessation of the Claimant's anti-platelet aspirin therapy; (b) Ordered the cessation of the Claimant's anti-platelet Plavix therapy; (c) Failed to either consult with or refer Claimant to his cardiologist for the determination of any change in the Claimant's anti-platelet therapy. As a direct and proximate result of one or more of the foregoing acts or omissions to act, the Claimant suffered an acute cardiac event.

3.

PROPERTY DAMAGE

NAME AND ADDRESS OF OWNER, IF OTHER THAN CLAIMANT (Number, Street, City, State, and Zip Code).

N/A

BRIEFLY DESCRIBE THE PROPERTY, NATURE AND EXTENT OF THE DAMAGE AND THE LOCATION OF WHERE THE PROPERTY MAY BE INSPECTED.
See instructions on reverse side).

N/A

PERSONAL INJURY/WRONGFUL DEATH

STATE THE NATURE AND EXTENT OF EACH INJURY OR CAUSE OF DEATH, WHICH FORMS THE BASIS OF THE CLAIM. IF OTHER THAN CLAIMANT, STATE THE NAME OF THE INJURED PERSON OR DECEASED.

See attached Continuation Sheet.

1.

WITNESSES

NAME	ADDRESS (Number, Street, City, State, and Zip Code)		
See attached Continuation Sheet			

2. (See instructions on reverse).
AMOUNT OF CLAIM (in dollars)

2a. PROPERTY DAMAGE	12b. PERSONAL INJURY	12c. WRONGFUL DEATH	12d. TOTAL (Failure to specify may cause forfeiture of your rights).
0	\$ 3000000	0	\$ 3000000

CERTIFY THAT THE AMOUNT OF CLAIM COVERS ONLY DAMAGES AND INJURIES CAUSED BY THE INCIDENT ABOVE AND AGREE TO ACCEPT SAID AMOUNT IN FULL SATISFACTION AND FINAL SETTLEMENT OF THIS CLAIM.

3a. SIGNATURE OF CLAIMANT (See instructions on reverse side).
13b. PHONE NUMBER OF PERSON SIGNING FORM

618-734-4400

14. DATE OF SIGNATURE

9/27/16

CIVIL PENALTY FOR PRESENTING FRAUDULENT CLAIM
CRIMINAL PENALTY FOR PRESENTING FRAUDULENT CLAIM OR MAKING FALSE STATEMENTS

The claimant is liable to the United States Government for a civil penalty of not less than \$5,000 and not more than \$10,000, plus 3 times the amount of damages sustained by the Government. (See 31 U.S.C. 3729).

Fine, imprisonment, or both. (See 18 U.S.C. 287, 1001.)

INSURANCE COVERAGE

In order that subrogation claims may be adjudicated, it is essential that the claimant provide the following information regarding the insurance coverage of the vehicle or property.

15. Do you carry accident insurance? Yes If yes, give name and address of insurance company (Number, Street, City, State, and Zip Code) and policy number. No

16. Have you filed a claim with your insurance carrier in this instance, and if so, is it full coverage or deductible? Yes No 17. If deductible, state amount.

0

18. If a claim has been filed with your carrier, what action has your insurer taken or proposed to take with reference to your claim? (It is necessary that you ascertain these facts).

N/A

19. Do you carry public liability and property damage insurance? Yes If yes, give name and address of insurance carrier (Number, Street, City, State, and Zip Code). No

INSTRUCTIONS

Claims presented under the Federal Tort Claims Act should be submitted directly to the "appropriate Federal agency" whose employee(s) was involved in the incident. If the incident involves more than one claimant, each claimant should submit a separate claim form.

Complete all items - Insert the word NONE where applicable.

A CLAIM SHALL BE DEEMED TO HAVE BEEN PRESENTED WHEN A FEDERAL AGENCY RECEIVES FROM A CLAIMANT, HIS DULY AUTHORIZED AGENT, OR LEGAL REPRESENTATIVE, AN EXECUTED STANDARD FORM 95 OR OTHER WRITTEN NOTIFICATION OF AN INCIDENT, ACCOMPANIED BY A CLAIM FOR MONEY

Failure to completely execute this form or to supply the requested material within two years from the date the claim accrued may render your claim invalid. A claim is deemed presented when it is received by the appropriate agency, not when it is mailed.

If instruction is needed in completing this form, the agency listed in item #1 on the reverse side may be contacted. Complete regulations pertaining to claims asserted under the Federal Tort Claims Act can be found in Title 28, Code of Federal Regulations, Part 14. Many agencies have published supplementing regulations. If more than one agency is involved, please state each agency.

The claim may be filed by a duly authorized agent or other legal representative, provided evidence satisfactory to the Government is submitted with the claim establishing express authority to act for the claimant. A claim presented by an agent or legal representative must be presented in the name of the claimant. If the claim is signed by the agent or legal representative, it must show the title or legal capacity of the person signing and be accompanied by evidence of his/her authority to present a claim on behalf of the claimant as agent, executor, administrator, parent, guardian or other representative.

If claimant intends to file for both personal injury and property damage, the amount for each must be shown in item number 12 of this form.

DAMAGES IN A SUM CERTAIN FOR INJURY TO OR LOSS OF PROPERTY, PERSONAL INJURY, OR DEATH ALLEGED TO HAVE OCCURRED BY REASON OF THE INCIDENT. THE CLAIM MUST BE PRESENTED TO THE APPROPRIATE FEDERAL AGENCY WITHIN TWO YEARS AFTER THE CLAIM ACCRUES.

The amount claimed should be substantiated by competent evidence as follows:

(a) In support of the claim for personal injury or death, the claimant should submit a written report by the attending physician, showing the nature and extent of the injury, the nature and extent of treatment, the degree of permanent disability, if any, the prognosis, and the period of hospitalization, or incapacitation, attaching itemized bills for medical, hospital, or burial expenses actually incurred.

(b) In support of claims for damage to property, which has been or can be economically repaired, the claimant should submit at least two itemized signed statements or estimates by reliable, disinterested concerns, or, if payment has been made, the itemized signed receipts evidencing payment.

(c) In support of claims for damage to property which is not economically repairable, or if the property is lost or destroyed, the claimant should submit statements as to the original cost of the property, the date of purchase, and the value of the property, both before and after the accident. Such statements should be by disinterested competent persons, preferably reputable dealers or officials familiar with the type of property damaged, or by two or more competitive bidders, and should be certified as being just and correct.

(d) Failure to specify a sum certain will render your claim invalid and may result in forfeiture of your rights.

PRIVACY ACT NOTICE

This Notice is provided in accordance with the Privacy Act, 5 U.S.C. 552a(e)(3), and concerns the information requested in the letter to which this Notice is attached.

A. *Authority:* The requested information is solicited pursuant to one or more of the following: 5 U.S.C. 301, 28 U.S.C. 501 et seq., 28 U.S.C. 2671 et seq., 28 C.F.R. Part 14.

B. *Principal Purpose:* The information requested is to be used in evaluating claims.

C. *Routine Use:* See the Notices of Systems of Records for the agency to whom you are submitting this form for this information.

D. *Effect of Failure to Respond:* Disclosure is voluntary. However, failure to supply the requested information or to execute the form may render your claim "invalid."

PAPERWORK REDUCTION ACT NOTICE

This notice is solely for the purpose of the Paperwork Reduction Act, 44 U.S.C. 3501. Public reporting burden for this collection of information is estimated to average 6 hours per response, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. Send comments regarding this burden estimate or any other aspect of this collection of information, including suggestions for reducing this burden, to the Director, Torts Branch, Attention: Paperwork Reduction Staff, Civil Division, U.S. Department of Justice, Washington, DC 20530 or to the Office of Management and Budget. Do not mail completed form(s) to these addresses.

CONTINUATION SHEET

10. Claimant, Patrick Webster, was placed on anti-platelet therapy by his cardiologist which included daily aspirin and Plavix. This anti-platelet therapy was necessary to sustain the Claimant's life and health because of his prior cardiovascular disease which included previous interventional cardiology procedures of a double bypass surgery in April 2004 and stents in June of 2014.

Claimant developed a small basal cell lesion on his face that was being treated by another physician at the Veteran's Administration Hospital in Marion, Illinois. That physician was Dr. James Zellmer. This minor procedure was scheduled by Dr. Zellmer for February 2, 2016. Dr. Zellmer correctly deferred the continuation, cessation or amendment of the Claimant's anti-platelet therapy to the Claimant's primary physician, Dr. Dayal, at the Veteran's Administration Hospital in Marion, Illinois.

Dr. Dayal, without consulting with the Claimant's cardiologist, ordered the cessation of the aspirin therapy on January 24, 2016 and the cessation of Plavix on January 28, 2016. The Claimant complied with both of the orders from Dr. Dayal and stopped the anti-platelet therapy as ordered.

On January 31, 2016, the Claimant developed an acute inferior wall STEMI which was complicated by cardiogenic shock. The Claimant suffered a total occlusion of the stent located in the circumflex artery. According to the Claimant's cardiologist, Dr. William LaFoe, who treated the Claimant on January 31, 2016 at Saint Francis Medical Center in Cape Girardeau, Missouri, the shock to the inferior wall STEMI was "due to stent thrombosis, due to stopping aspirin and Plavix for a surgical procedure."

11. Witnesses are as follows:

Patrick Webster
c/o Mark S. Johnson
Johnson, Schneider & Ferrell, LLC
212 North Main Street
Cape Girardeau, MO 63701

Lynn Webster
c/o Mark S. Johnson
Johnson, Schneider & Ferrell, LLC
212 North Main Street
Cape Girardeau, MO 63701

Dr. Shoba Dayal
Marion VA Medical Center
2401 W. Main Street
Marion, IL 62959

Dr. Michael Prior
Marion VA Medical Center
2401 W. Main Street
Marion, IL 62959

Dr. James Zellmer
Marion VA Medical Center
2401 W. Main Street
Marion, IL 62959

Dr. William LaFoe Cape Cardiology Group
Heart Hospital
211 Saint Francis Drive, Suite 15
Cape Girardeau, MO 63703